

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DIRECTV, INC.,

Plaintiff,

v.

CIV 03-55 KBM/LFG

FRANK PEREZ, JESUS BARNEY,
RAMON BARRERA, KAYE BLANKS,
DANNY DUNAGAN, MIKE EICHEM,
and RANDY HAZELBAKER,

Defendants.

**MEMORANDUM OPINION AND ORDER
DISMISSING MISJOINED DEFENDANTS**

This matter is before the Court on the briefs submitted by the parties pursuant to my Order to show cause why defendants are properly joined (*Doc. 53*). Pursuant to 28 U.S.C. § 636(c) and FED. R. CIV. P. 73(b), the plaintiff and all served defendants have consented to have me serve as the presiding judge and enter final judgment.

Having carefully reviewed the parties submissions and relevant authorities, I adopt the clear reasoning set forth by District Judge William P. Johnson in his thorough opinion issued in *DIRECTV, INC. v. Banks*, CIV. 03-610 WJ/LFG on January 20, 2004 (*Doc. 77*), and likewise find that the defendants have been misjoined. Moreover, I agree with Judge Johnson that the appropriate remedy is to dismiss the complaint without prejudice as to all but the first-named defendant.

Wherefore,

IT IS HEREBY ORDERED that pursuant to Fed. R. Civ. P. 21, Defendants Jesus Barney, Ramon Barrera, Kaye Blanks, Danny Dunagan, Mike Eichem, and Randy Hazelbaker are hereby DISMISSED from this action WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that if Plaintiff DIRECTV, Inc. elects to reassert its claims against these Defendants by filing separate cases against them and paying the required filing fee within 30 days of this Order, the newly filed Complaints shall relate back to the date on which the original Complaint in this case was filed.

IT IS FURTHER ORDERED that this case shall remain pending as to Defendant Frank Perez.

IT IS FINALLY ORDERED that the caption of this case is hereby amended to read DIRECTV, INC. v. Frank Perez, CIV 03-055 KBM/LFG.


UNITED STATES MAGISTRATE JUDGE